

**United States District Court**  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Shasta Strategic Investment Fund LLC, et al.,

NO. C 04-04264 JW

Princeton Strategic Investment Fund LLC,

NO. C 04-04310 JW

Belford Strategic Investment Fund LLC,

NO. C 04-04309 JW

Sanford Strategic Investment Fund LLC,

NO. C 04-04398 JW

Olympus Strategic Investment Fund LLC, et al.,

NO. C 04-04399 JW

Sill Strategic Investment Fund LLC, et al.,

NO. C 04-04964 JW

Sixty-Three Strategic Investment Funds, et al.,

NO. C 05-01123 JW

Twenty-Two Strategic Investment Funds, et al.,

NO. C 05-02835 JW

Twenty-Two Strategic Investment Funds, et al.,

NO. C 05-03887 JW

**ORDER VACATING CASE  
MANAGEMENT CONFERENCE;  
SETTING SCHEDULE**

Petitioners,

v.

United States of America,

Respondent.

These nine related cases are scheduled for a Case Management Conference on July 11, 2011. On July 1, 2011, the parties filed a Joint Case Management Statement in the Lead Case, No. C 04-04264 JW.<sup>1</sup> In the Statement, the government contends that it is preparing to file a Motion for Summary Judgment in one of the Related Cases<sup>2</sup> based upon the doctrine of collateral estoppel and issue preclusion. (*Id.* at 4.) Further, the government contends that the Court should “stay further discovery” in these cases until after it has ruled on the government’s planned Motion for Summary Judgment, on the ground that the planned Motion “is likely to resolve a number of important issues in these cases.”<sup>3</sup> (*Id.* at 6, 9.) Petitioners oppose the request to stay discovery, contending instead that the cases “should be set on a normal discovery schedule” and that the government “may choose to file summary judgment or other motions when it believes they are ripe.” (*Id.* at 9.)

Because the case has been stayed for a number of years, the Court finds good cause to advance the case by providing the parties with a schedule. There is no reason that the government cannot file its Motion for Summary Judgment in tandem with the case proceeding in its natural course. In addition, summary judgment in one related case may not affect all nine cases. Accordingly, the Court VACATES the July 11 Conference and ORDERS as follows:

#### CASE SCHEDULE

<b>Close of All Discovery (¶ 9)</b>	<b>January 13, 2012</b>
<b>Last Date for Hearing Dispositive Motions (¶ 10) (~60 days after the Close of All Discovery)</b>	<b>March 12, 2012</b>
<b>Preliminary Pretrial Conference at 11 a.m. (¶ 12) (~30 days before the Close of All Discovery)</b>	<b>December 12, 2011</b>
<b>Preliminary Pretrial Conference Statements (¶ 11) (Due 10 days before conference)</b>	<b>December 2, 2011</b>

<sup>1</sup> (Joint Case Management Statement in Response to June 9, 2011 Order Setting Case Management Conference, hereafter, “Statement,” Docket Item No. 126 in No. C 04-04264 JW.)

<sup>2</sup> Princeton Strategic Investment Funds, LLC v. United States of America, No. C 04-04310 JW.

<sup>3</sup> The government contends that it will file its planned motion for summary judgment “in time to notice a hearing on the motion under local rules for October 3, 2011, the earliest available hearing date on the Court’s calendar.” (*Id.* at 9.)

1

2 None of the dates set in this Order may be changed without an order of the Court made after  
3 a motion is filed pursuant to the Civil Local Rules of Court.

4

**Standing Order to Lodge Printed Copy of "ECF" Papers**

5 1. In all cases, including cases covered by the Electronic Case Filing System of  
6 the Court "ECF," when filing papers in connection with any motion or any pretrial conference, in  
7 addition to filing the paper electronically, the filing parties shall lodge with the Clerk's Office a  
8 printed copy of the papers, in an envelop clearly marked "Chamber's Copy – Lodged for the  
9 Chambers of Judge James Ware." The "Chamber's Copy" envelop must state the case name and case  
10 number and be delivered on or before the close of the next court day following the day the papers  
11 are filed electronically. See Standing Order Regarding Case Management in Civil Cases.

12

**Compliance with Discovery Plan and Reference to Magistrate Judge**

13 2. The parties are ordered to comply with the discovery plan as set forth in the  
14 Case Schedule. Any disputes with respect to the implementation of the discovery plan and all  
15 disclosure or discovery disputes are referred to the assigned Magistrate Judge. In addition, any  
16 disputes pertaining to service or joinder of parties or claims are referred to the assigned Magistrate  
17 Judge.

18

**Document Management During Pretrial Discovery and Electronic Evidence Presentation**

19 3. This Court has available a digital and video electronic evidence presentation  
20 system. Before commencement of pretrial discovery, the parties are ordered to familiarize  
21 themselves with the system, and to meet and confer about whether the case will involve voluminous  
22 documentary. If so, as the parties identify documentary material which is likely to be used as trial  
23 exhibits, the parties are ordered to electronically store these materials in a fashion which will  
24 facilitate displaying them electronically during the trial. The parties are reminded that Civil L.R. 30-  
25 2(b) requires sequential numbering of exhibits during depositions and that numbering must be  
26 maintained for those exhibits throughout the litigation. Each proposed exhibit shall be pre-marked  
27 for identification. All exhibits shall be marked with numerals. The parties shall meet and confer on  
28

1 a division which will avoid duplication (e.g., Plaintiff: 1-99,000; Defendant #1: 100,000-299,999;  
2 Defendant #2: 300,000-500,000).

## **Disclosure of Expert Witnesses**

4                  4. Any party wishing to present expert witness testimony with respect to a  
5 claim or a defense shall lodge with the Court and serve on all other parties the name, address,  
6 qualifications, résumé and a written report which complies with Fed. R. Civ. P. 26(a)(2)(B) **63 days**  
7 **before close of discovery.** Expert witness disclosure must be made with respect to a person who is  
8 either (a) specially retained or specially employed to provide expert testimony pursuant to  
9 Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to  
10 provide expert opinion testimony.

11               5.         The parties are also required to lodge any supplemental reports to which any  
12 expert will testify at trial in accordance with Fed. R. Civ. P. 26(a)(2)(B).

13           6. Any party objecting to the qualifications or proposed testimony of an expert  
14 must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in  
15 writing in accordance with Civil Local Rule 7-2, for hearing no later than **42 DAYS AFTER BOTH**  
16 **EXPERT AND REBUTTAL EXPERT DISCLOSURES ON A MONDAY (LAW AND**  
17 **MOTION DAY) at 9:00 a.m.** and preferably before or on the same day as the discovery cutoff  
18 date at 9:00 a.m.

## Rebuttal Expert Witnesses

20           7. If the testimony of the expert is intended solely to contradict or rebut opinion  
21 testimony on the same subject matter identified by another party, the party proffering a rebuttal  
22 expert shall make the disclosures required by Fed. R. Civ. P. 26(a)(2)(B), no later than **49 days**  
23 **prior to discovery cutoff.**

### **Limitation on Testimony by Expert Witnesses**

25           8. Unless the parties enter into a written stipulation otherwise, upon timely  
26 objection, an expert witness shall be precluded from testifying about any actions or opinions not  
27 disclosed prior to the expert's deposition. This is to ensure that all factual material upon which

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1 expert opinion may be based and all tests and reports are completed prior to the expert deposition.  
2 Unless application is made prior to the close of expert discovery, each party will be limited to  
3 calling only one expert witness in each discipline involved in the case.

4                   **Close of Discovery**

5                   9. Pursuant to Civil L.R. 26-2, all discovery, including supplemental  
6 disclosure, depositions of fact witness and expert witnesses, must be completed on or before the  
7 deadline set forth in the Case Schedule above.

8                   **Last date for Hearing Dispositive Motions**

9                   10. The last day for hearing dispositive motions is set forth in the Case Schedule  
10 above. Any motions must be noticed in accordance with the Civil Local Rules of this Court.

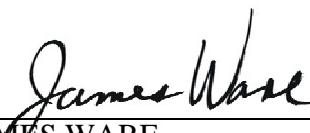
11                  **Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order**

12                  11. The attorneys who will try the case are ordered to confer with one another  
13 and to file and lodge with Chambers on or before the deadline set forth in the Case Schedule above a  
14 Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order, stating their  
15 readiness for trial, the amount of time which the Court should allocate for trial and the calendar  
16 period for the trial.

17                  12. The attorneys who will try the case are ordered to appear on the date set in  
18 the Case Schedule at 11:00 a.m. for a Preliminary Pretrial and Trial Setting Conference.

19                  13. With respect to the time allocation for trial, at the Preliminary Pretrial and  
20 Trial Setting Conference trial counsel will be asked to stipulate to a time allocation to each side for  
21 the trial of the case. Once a stipulated allocation has been entered, the parties must plan their  
22 presentations to conform to the stipulated time allocation.

23  
24  
25 Dated: July 5, 2011

  
\_\_\_\_\_  
JAMES WARE  
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Adair Ford Boroughs adair.f.boroughs@usdoj.gov  
3 David A. York david.york@lw.com  
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7 N. Jerold Cohen jerry.cohen@sablaw.com

8 **Dated: July 5, 2011**

Richard W. Wieking, Clerk

10 By: /s/ JW Chambers

11 Susan Imbriani  
Courtroom Deputy